IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of: Sridhar Gollamudi et al.	§	Confirmation No. 7972
Serial No.: 10/697,449	§	Group Art Unit: 2617
Filed: October 30, 2003	§	Examiner: Meihra, Inder P.
For: SYSTEM AND METHOD FOR PROVIDING MULTI-BEAM SCHEDULING	§	Atty Docket: LUCW:0008/FLE/DOO Gollamudi 7-19

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December 24, 2009	/Matthew C. Dooley/
Date	Matthew C. Dooley

Dear Sir:

PRE-APPEAL BRIEF REQUEST FOR REVIEW

With respect to the Final Office Action of September 24, 2009, Appellants respectfully submit this Pre-Appeal Brief Request for Review. This Request is being filed concurrently with a Notice of Appeal.

In the Final Office Action, the Examiner rejected claims In the Office Action, the Examiner rejected claims 1, 2, 4-17, and 19-23 under 35 U.S.C. §103(a). Of these, claims 1 9, and 16 are independent. Because Appellants believe that the rejections are improper, the present Appeal and Request for Review has been filed.

Claim Rejections under 35 U.S.C. § 103(a)

In the Office Action, claims 1, 2, 5-11, 14-17, and 19-23 were rejected under 35 U.S.C. § 103(a) as unpatentable over Reudink et al., U.S. Pub. No. 2004/0235527 (hereinafter "Reudink"), in view of Walton et al., U.S. Patent No. 6,744,743 (hereinafter "Walton") and further in view of Grube et al., U.S. Patent No. 5,319,796 (hereinafter "Grube). Appellants respectfully traverse this rejection since the cited references fails to teach each and every limitation of the claimed invention.

Omitted Features of Independent Claims 1, 9, and 16

Reudink, Walton, and Grube, taken alone or in hypothetical combination, fail to teach each element of independent claims 1, 9, and 16. Independent claims 1 and 16 recite, in part, a scheduler "adapted to schedule the allocation of the group of shared system resources such that no two users served by a pair of overlapping coverage envelopes are assigned the same system resources." (Emphasis added.) Similarly, amended independent claim 9 recites, in part, "scheduling the allocation of the group of shared system resources such that no two receivers served by a pair of overlapping coverage envelopes receive the same system resources during a simultaneous data transmission." (Emphasis added.)

It was admitted in the Final Office Action that Reudink failed to teach a scheduler. *See* Final Office Action, page. Accordingly, Reudink cannot be read as teaching a scheduler adapted to schedule the allocation of the group of shared system resources such that no two users served by a pair of overlapping coverage envelopes are assigned the same system resources, as recited in independent claims 1 and 16. Additionally, it was admitted in the Final Office Action that Reudink failed to teach scheduling the allocation of the group of shared system resources such that no receivers served by a pair of overlapping coverage envelopes receive the same system resources during a simultaneous data transmission, as recited in independent claim 9. *See* Final Office Action, page 6. Accordingly, the cited portions of Reudink fail to teach all elements of independent claims 1, 9, and 16.

Additionally, it was suggested in the Final Office Action that Walton, in paragraph 61, teaches a scheduler that assigns system resources from a group of shared system resources to

a plurality of receivers. *See* Final Office Action, page 4. However, it was admitted in the Final Office Action that the cited portion of Walton fails to teach a scheduler adapted to schedule the allocation of the group of shared system resources such that no two users served by a pair of overlapping coverage envelopes are assigned the same system resources, as recited in independent claims 1 and 16. *See id.* Additionally, it was admitted in the Final Office Action that the cited portion of Walton failed to teach scheduling the allocation of the group of shared system resources such that no two receivers served by a pair of overlapping coverage envelopes receive the same system resources during a simultaneous data transmission, as recited in independent claim 9. *See* Final Office Action, page 6. Accordingly, the cited portions of Walton fail to teach all elements of independent claims 1, 9, and 16.

To remedy the admitted deficiencies of Reudink and Walton, it was suggested in the Final Office Action that Grube, in col. 3, lines 30-35 and 43-47, teaches scheduling the allocation of the group of shared system resources such that no two users served by a pair of overlapping coverage envelopes are assigned the same system resources, as recited in independent claims 1 and 16. *See* Final Office Action, page 4. It was further suggested in the Final Office Action that Grube teaches scheduling the allocation of the group of shared system resources such that no two receivers served by a pair of overlapping coverage envelopes receive the same system resources during a simultaneous data transmission, as recited in independent claim 9. *See* Final Office Action, page 6. Appellants respectfully disagree with this reading of Grube.

First, it should be noted that in each of independent claims 1, 9, and 16, the recited group of shared system resources is specifically claimed as comprising a group of channelization codes. Channelization codes are described in the specification as imparting a uniquely identifiable pattern to each signal being transmitted by a base station. *See* Specification, page 3, lines 17-21. Furthermore, different channelization codes may be employed in conjunction with signals transmitted simultaneously within the same cell to prevent interference between the signals in a given channel. *See* Specification, page 3, line 21

– page 4, line 4. Thus, channelization codes may allow for multiple users to share a given channel without interference with one another.

In contrast, the cited portions of Grube appear to teach a system that operates in an opposite manner to the recitations in independent claims 1, 9, and 16. That is, while claims 1, 9, and 16 recite sharing resources (i.e. channelization codes) such that no two users (or receivers) utilize the same channelization code, the cited portions of Grube appear to teach a system that determines if two users are in an overlapping coverage area, and if the two users are utilizing a common channel to place calls, moving one of the calls to another channel, such as the channel with the least amount of recent co-channel usage. *See* Grube, col. 2, lines 54-60, and col. 3, lines 40-47. That is, Grube appears to teach a system that includes transferring usage from a shared channel to a differing channel, while independent claims 1, 9, and 16 recite allocation of shared system resources (such as channelization codes, which are disclosed to be used in sharing a given resource such as a single channel).

Simply put, Grube teaches utilization of a second channel when two receivers served by a pair of overlapping coverage envelopes are discovered to be utilizing the same system channel. That is, the shared system resources of Grube appear to be multiple channels that are utilized when two receivers are attempting to utilize a single channel. In contrast, the independent claims 1, 9, and 16 recite utilization of differing channelization codes when two receivers served by a pair of overlapping coverage envelopes are operating. It is simply improper to suggest that teachings of Grube directed to utilization of a two distinct channels as a shared resource may be read as teaching allocation of the channelization codes, as recited in independent claims 1, 9, and 16 because the system of Grube teaches away from the use of channelization codes. That is, the system of Grube does not require channelization codes because if two receivers are discovered to be utilizing the same system channel, one receiver is merely moved to another channel to avoid interference between the two. As such, there is no need for the system of Grube to utilize channelization codes to allow for multiple receivers to transmit signals simultaneously within the same cell, since Grube teaches to instead merely move one receiver to a different channel.

Accordingly, because the cited portions of Grube appear to teach away from utilizing a group of channelization codes as a shared resource, Grube cannot be read as teaching scheduling the allocation of the group of shared system resources (i.e. the group of characterization codes) such that no two users served by a pair of overlapping coverage envelopes are assigned the same system resources (i.e., the same characterization code), as recited in independent claims 1 and 16. Furthermore, Grube cannot be read as teaching scheduling the allocation of the group of shared system resources (i.e. the group of characterization codes) such that no two receivers served by a pair of overlapping coverage envelopes receive the same system resources (i.e., the same characterization code) during a simultaneous data transmission), as recited in independent claim 9.

Therefore, for at least the reasons set forth above, Reudink, Walton, and Grube, taken alone or in hypothetical combination, fail to teach each element of independent claims 1, 9, and 16. Accordingly, Appellants respectfully request withdrawal of the rejection and allowance of independent claims 1, 9, and 16, as well as all claims depending therefrom.

Conclusion

In view of the remarks and amendments set forth above, Appellants respectfully request allowance of the pending claims. If the Examiner believes that a telephonic interview will help speed this application toward issuance, the Examiner is invited to contact the undersigned at the telephone number listed below.

Respectfully submitted,

Date: December 24, 2009

/Matthew C. Dooley/
Matthew C. Dooley
Reg. No. 61,996
FLETCHER YODER
7915 FM 1960 West, Suite 330
Houston, TX 77070
(281) 970-4545